

Assembly Bill No. 882

Passed the Assembly April 28, 2005

Chief Clerk of the Assembly

Passed the Senate June 15, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 17316 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 882, Nation. School facilities: contracts with certified architects or structural engineers.

Under existing law, contracts entered into by and between a school governing board and any certified architect or structural engineer are required to provide that plans, specifications, and estimates are the property of the school district. Existing law provides that a school district that proposes to reuse the plans within the school district is required to specify the terms and conditions for the reuse in the contract entered into between the school district and the architect or engineer.

This bill would provide that a school district that reuses the plans prepared by the certified architect or structural engineer and retains another certified architect or structural engineer for the preparation of those plans for the reuse would be required to indemnify and hold harmless the original certified architect or structural engineer, and their consultants, agents, and employees, from and against any claims, damages, losses, and expenses arising out of or resulting from, in whole or in part, the reuse.

The people of the State of California do enact as follows:

SECTION 1. Section 17316 of the Education Code is amended to read:

17316. (a) Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 17302 shall provide that all plans, including, but not limited to, record drawings, specifications, and estimates prepared pursuant thereto, shall be and remain the property of the school district for the purposes of repair, maintenance, renovation, modernization, or other purposes, only as they relate to the project for which the certified architect or structural engineer was retained. This subdivision does not preclude the school district from using the plans, record

drawings, specifications, or estimates related to the project for the purposes of additions, alignments, or other development on the site.

(b) The contract set forth in subdivision (a) does not transfer or waive the certified architect's or structural engineer's copyrights over these documents, including, but not limited to, all common law, statutory, and other reserved rights, unless the certified architect or structural engineer expressly transfers or waives these rights through the written contract, including, but not limited to, a written addendum or amendment.

(c) Notwithstanding subdivision (a), if the school district proposes to reuse the plans prepared by the certified architect or structural engineer within the school district, the contract entered into between the school district and the certified architect or structural engineer shall specify the terms and conditions for the reuse. If a school district reuses the plans prepared by the certified architect or structural engineer and retains another certified architect or structural engineer for the preparation of those plans for the reuse, the school district shall indemnify and hold harmless the original certified architect or structural engineer, and their consultants, agents, and employees, from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the reuse.

Approved _____, 2005

Governor